

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 10TH JANUARY 2007 / 20TH PAUSHA 1928

WP(C).No. 28509 of 2006(R)

PETITIONER:

1. AYYAPPAN ASARI
S/O/.K.SUBBAYYAN ASARI,
VASANTHAM,KONCHIRA P.O.,KANYAKULANGARA,
VEMBAYAM.
2. SRI.K.SUBRAMANIAN ASARI,
S/O.A.S.KRISHNAN ASARI,
T.C.38/2448 PUTHEN CHALAI,
TRIVANDRUM-36.
3. S.PURUSHOTHAMAN NAIR,
S/O.R.SANKARA PILLAI,
BIJU MANNDIRAM,KATTACHAL KUZHY,
BALARAMAPURAM.
4. SRI.C.SASEENDRAN NAIR,
S/O.K.CHELLAPPAN PILLAI,
ARUMADA P.O.,TRIVANDRUM.

BY ADV. SRI.M.M.HUSAIN
SRI.P.J.MATHEW

RESPONDENTS:

1. KERALA SMALL INDUSTRIES DEVELOPMENT
CORPORATION LTD.,REPRESENTED BY ITS
MANAGING DIRECTOR, HOUSING BOARD BUILDING,
SANTHI NAGAR,TRIVANDRUM-695001.
2. THE ADMINISTRATIVE OFFICER,
K.S.I.D.C.LTD.P.B. NO.50.
HOUSING BOARD BUILDING,SANTHI NAGER,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.A.MANHU, SC, SIDCO

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO.28509 of 2006

Dated this the 10th day of January, 2007

JUDGMENT

The petitioners are retired employees of the respondent Corporation. It is contended that they are yet to be paid substantial portion of the terminal benefits and some of the other service benefits which can be reckoned in terms of money, despite the lapse of several years. A writ of mandamus directing the first respondent to disburse the pensionary benefits and DA arrears along with other monetary claims has been prayed for.

2. A statement has been filed on behalf of the respondents. The defence put up by the respondents is that the Corporation has been passing through hard times, and on account of financial crisis, the amounts due to the retired employees could not be promptly paid. It is contended that other retired employees who have got preferential claim for terminal benefits are waiting in the queue and that the petitioners are not entitled to insist that they should be paid terminal benefits within a specified time limit because the Corporation had informed them sufficiently early that such payments will be made, particularly, the amounts arising on account of the arrears of dearness

allowance etc. due to revision of pay, only when the Corporation becomes financially viable and is in a position to pay off the entire amount.

3. Though the contentions taken in the counter affidavit are based on the prevailing facts and circumstances, it is difficult to accept the stand taken by the respondents that the retired employees will have to wait indefinitely, and that too till the respondent Corporation becomes financially viable, which event, sometimes, may not be happen at all. It all depends upon the proper management of the Corporation. If the Corporation is facing financial crisis, the retired employees cannot be found fault with. They are entitled to say that they should be paid the terminal benefits atleast within a reasonable time limit. This Court has upheld such contentions of the employees and has turned down similar contentions urged by certain Government owned Corporations and Boards. In the judgment rendered by a learned judge of this Court in W.P.(C)Nos.15032/2004 and connected cases, in which the Hindustan Insecticides Ltd. was contesting the respondent, similar contentions raised by that respondent were repelled. The above judgment was affirmed by the Division Bench of this Court in a batch of cases disposed of on 31.7.2006, vide writ

appeal No.1569/2005 and connected cases. In the light of the above legal position, I am inclined to dispose of this writ petition issuing the following directions:

i) The respondents shall see that the amounts legitimately due to the petitioners by way of terminal benefits and other claims are paid within a period of four months from today. The request made by the respondents for the grant adequate time is allowed only to that extent.

ii) If the petitioners feel that the amount thus paid is not the correct amount, they are entitled to raise it as a dispute to be settled by the Corporation. In that event, the Corporation shall consider the representation, if any, filed by the petitioners and appropriate decision taken and communicated to the petitioners. The petitioners shall produce a copy of the judgment before the first respondent Corporation, as expeditiously as possible, for compliance.

K.K.DENESAN, JUDGE

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